Emergency Action Level Frequently Asked Question (EALFAQ) Report Sorted by EAL FAQ ID Number

Each operating nuclear power plant is required to include in its emergency plan a standard emergency classification and EAL scheme. An EAL is a pre-determined, site-specific, observable threshold for a plant condition that places the plant in an emergency class. The NRC is using an FAQ process to assist licensees with EAL development. As such, a practical knowledge of existing EAL regulatory guidance is required in applying any EALFAQ response.

The EALFAQ process is intended to clarify the NRC staff's interpretation of existing EAL regulatory guidance issued or endorsed by the NRC, and will not be used to create new regulatory positions or guidance. Issues involving safeguards information are not considered under the EALFAQ process.

EAL FAQ ID NUMBER: 2009-48 **DATE POSTED:** 10/15/2009 **STATUS:** 30-DAY COMMENT PERIOD

EAL SCHEME: ALL **EAL NUMBER:** SECURITY EALS

QUESTION

NRC GENERATED EALFAQ: NEI and the NEI EAL Task Force requested that the staff address the process for revising and implementing the security EALs of the endorsed guidance in NEI 99-01 Rev. 5 (ADAMS Accession No. ML084501419) to support licensee's Security Plan implementation of NEI 03-12, Revision 6, "Template for the Security Plan, Training and Qualification Plan, Safeguards Contingency Plan; [and Independent Spent Fuel Storage Installation Security Program]." NEI and the NEI EAL Task Force has concluded that the intent of the wording as stated in Bulletin 05-02, "Emergency Preparedness and Response Actions for Security-Based Events," and RIS 06-12, "Endorsement of Nuclear Energy Institute Guidance - Enhancements to Emergency Preparedness Programs for Hostile Action," is fully subsumed by NEI 99-01 Rev. 5 EALs and would like the staff to confirm this conclusion.

From this point forward, the discussions will relate the Bulletin and/or endorsed NEI White Paper wording against that in the endorsed version of NEI 99-01 Rev. 5, this will be stated as "RIS/Bulletin.

PROPOSED SOLUTION

Staff to review the Security EALs as worded in NEI 99-01 Rev. 5 and Bulletin 05-02 and determine if the changes result in a reduction in the effectiveness of the Security EALs.

PROPOSED JUSTIFICATION

The regulatory process for licensees to follow when making changes to their Emergency Plan is 10 CFR 50.54(q). In accordance with this regulation, licensees are responsible for this evaluation and determination as to whether the change results in a reduction in the effectiveness of their Emergency Plan. As a result of the licensee's determination, the licensee will either make the change on their own or submit it to the NRC for prior approval. Any guidance provided in this EALFAQ

does not relieve licensees from this responsibility, however, the EALFAQ can clarify staff's position on the issue.

The staff has reviewed the changes made to the Security EALs in the endorsed version of NEI 99-01 R5 against the wording from the RIS/Bulletin, and has determined that the changes made are consistent with the intent of the Security EALs and that the changes do not result in a reduction in the effectiveness of the Security EALs.

NEI 99-01 Rev. 5 was revised, for Security EALs, for three primary reasons: <1> Several of the Alert EALs should have been made into one Alert EAL because of human factors and ease of use; <2> Security-EP drills and exercises demonstrated that the interface between the Security Plan and Emergency Plan would be better served by adopting a common term to signify security events that reach a level where EAL classification is considered for actions that are not the result of hostile actions as defined; and <3> non-hostile action events, i.e., acts that are NOT part of an attack on the nuclear power plant, do not rise to the level of an Alert or Site Area Emergency level as these levels are defined.

NEI 99-01 Rev. 5 created a new term "Security Condition" and defined it as: "Any security event as listed in the approved security contingency plan that constitutes a threat/compromise to site security, threat/risk to site personnel, or a potential degradation to the level of safety of the plant. A security condition does not involve a hostile action." This definition is consistent with NEI 03-12 Rev. 6, is only used in NEI 99-01 Rev. 5 for EAL HU4, and still meets the intent of the RIS/Bulletin.

NEI 99-01 Rev. 5 combined RIS/Bulletin EALs HA7 and HA8 into a newly worded NEI 99-01 Rev. 5 EAL HA4. NEI 99-01 Rev. 5 EAL HA4 continues to meet the intent of the RIS/Bulletin EALs HA7 and HA8.

NEI 99-01 Rev. 5 revised RIS/Bulletin EAL HS4 to clarify its intent and to align it with the already defined term "hostile action." NEI 99-01 Rev. 5 EAL HS4 continues to meet the intent of the RIS/Bulletin EAL HS4.

NEI 99-01 Rev. 5 revised RIS/Bulletin EAL HG1 to clarify its intent and to align it with the already defined term "hostile action," as well as moving the direction related to spent fuel from the basis section to an actual EAL threshold. NEI 99-01 Rev. 5 EAL HG1 continues to meet the intent of RIS/Bulletin 05-02 EAL HG1.

NEI 99-01 Rev. 5 removed RIS/Bulletin EALs HA4 and HS1 as these EALs were written for events not based on hostile action as defined, as these events will not rise to the level of an Alert or Site Area Emergency as these terms are defined. The intent of the RIS/Bulletin Security EAL scheme is maintained with these changes.

RESOLUTION OF EALFAQ

Based upon the justification provided, the staff concludes that:

<1> It is the responsibility of the licensee to make the determination whether an emergency plan change does, or does not, result in a reduction in the effectivenss of their emergency plan.

<2> If the licensee implemented the Security EALs EXACTLY (emphasis added) as worded in the Bulletin or NRC endorsed White Paper, and the licensee wants to adopt the Security EALs as stated in NEI 99-01 Rev. 5, then the staff concludes that it is reasonable for a licensee to determine the changes do not result in a decrease

in the effectiveness of the emergency plan in accordance with 10 CFR 50.54(q). However, each licensee is responsible for evaluating these changes for their specific emergency plan.